



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SW

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,151	08/22/2001	Gregory Alan Steube	20518/13 (S-8475)	9252
7590	05/21/2004		EXAMINER	
Mark S. Leonardo, Esq. Brown Rudnick Freed & Gesmer One Financial Center Box IP, 18th Floor Boston, MA 02111			MAYNARD, JENNIFER J	
			ART UNIT	PAPER NUMBER
			3763	<i>J</i>
DATE MAILED: 05/21/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/935,151	STEUBE, GREGORY ALAN	
	Examiner	Art Unit	
	Jennifer J Maynard	3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 February 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 20 is/are allowed.
- 6) Claim(s) 1-15, 17-19 and 21-26 is/are rejected.
- 7) Claim(s) 16 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION***Response to Amendment******Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

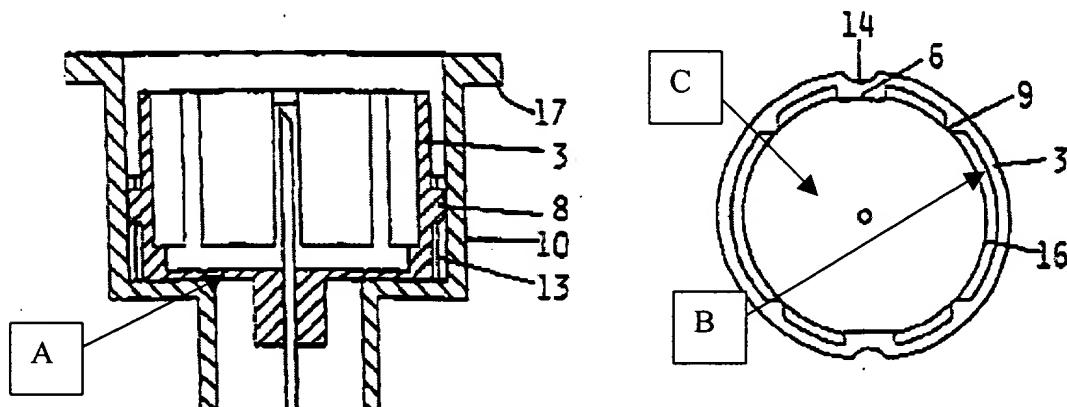
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by

Ejlersen (US 5,968,021 A).

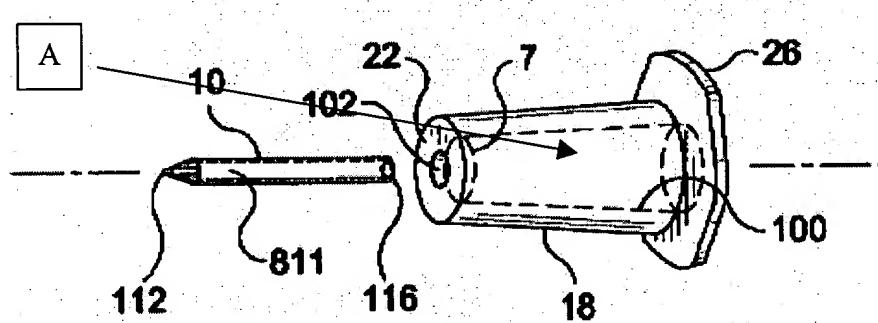
Ejlersen discloses a needle assembly comprising a needle hub (2) defining an interior cavity (C, see labeled figures below) having a distal end (A, see labeled figures below) and at least one fin (9) being disposed therein, that intersects an interior surface (B, see labeled figures below) of the needle hub that defines the interior cavity wherein, the at least one fin extends longitudinally a fixed distance from the distal end of the interior cavity to a proximal facing surface that engages a barrel tip (4, 5, 7) of the needle assembly when disposed within the interior cavity.



Art Unit: 3763

Claims 1-7, 10-15, 17, 18 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Caizza (US 5,964,737 A).

Caizza discloses a needle assembly comprising a needle hub (18) defining an interior cavity (A, see labeled figure below) having a distal end (22) and at least one (annular) fin (34, 134) being disposed therein, that intersects an interior surface (100) of the needle hub that defines the interior cavity wherein, the at least one fin extends longitudinally a fixed distance from the distal end of the interior cavity to a proximal facing surface that engages a barrel tip (38) of the needle assembly when disposed within the interior cavity.

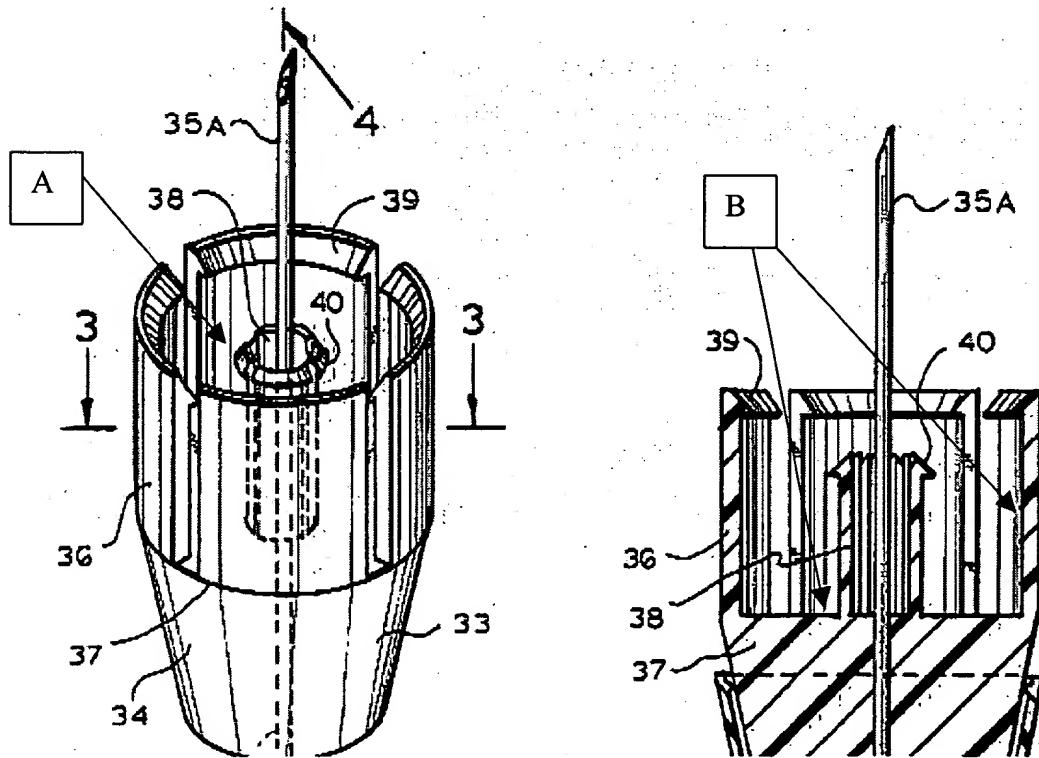


Claims 1-4 and 21-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Tarello et al. (US 4,747,839 A).

Tarello et al. discloses a needle assembly comprising a needle hub (34) defining an interior cavity (38, 40) having a distal end (50) and at least one fin (66) being disposed therein, that intersects an interior surface (68) of the needle hub that defines the interior cavity wherein, the at least one fin extends longitudinally a fixed distance from the distal end of the interior cavity to a proximal facing surface that engages a barrel tip (20, 30, 32) of the needle assembly when disposed within the interior cavity.

Claims 1-15, 19 and 21-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Cooper (US 4,568,336 A).

Cooper discloses a needle assembly comprising a needle hub (33) defining an interior cavity (A, see labeled figures below) having a distal end (37) and at least one fin (36, 40) being disposed therein, that intersects an interior surface (B, see labeled figures below) of the needle hub that defines the interior cavity wherein, the at least one fin extends longitudinally a fixed distance from the distal end of the interior cavity to a proximal facing surface (40) that engages a barrel tip (11, 22, 24, 25, 26, 31, 32) of the needle assembly when disposed within the interior cavity.



Allowable Subject Matter

Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 20 is allowed.

Response to Arguments

Applicant's arguments filed 26 February 2004 have been fully considered but they are not persuasive.

With respect to Applicant's assertion that Ejlersen (US 5,968,021 A) fails to disclose at least one fin being disposed within the interior cavity, that intersects an interior surface of the needle hub that defines the interior cavity wherein, the at least one fin extends longitudinally a fixed distance from the distal end of the interior cavity to a proximal facing surface that engages a barrel tip of the needle assembly when disposed within the interior cavity. Given that the barrel tip is merely inferentially included, the Examiner contends wherein Ejlersen's hub were used with a larger diameter barrel tip, the barrel tip would in fact contact the proximal facing surface of the at least one fin. The prior art's ability to attain the claimed configuration reads on the claim limitations.

With respect to Applicant's assertion that Caizza (US 5,964,737 A) fails to disclose at least one fin being disposed within the interior cavity, that intersects an interior surface of the needle hub that defines the interior cavity wherein, the at least one fin extends longitudinally a fixed distance from the distal end of the interior cavity to a proximal facing surface that engages

Art Unit: 3763

a barrel tip of the needle assembly when disposed within the interior cavity. The Examiner contends that when Caizza's at least one fin is affixed to the needle hub, the at least one fin does in fact extend longitudinally a fixed distance from the distal end of the interior cavity to a proximal facing surface that engages a barrel tip of the needle assembly, at least up until the barrel tip begins to compress the at least one fin.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

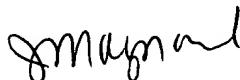
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer J Maynard whose telephone number is 703.305.1356. The examiner can normally be reached on Mondays-Fridays 9:30 AM-5:30 PM; 1st Fridays off.

Art Unit: 3763

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703.308.3552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J Maynard



GLENN K. DAWSON
PRIMARY EXAMINER